IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

MFA.No. 637 of 2001()

WC.116/1997 of LABOUR COURT, KANNUR
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APPELLANTS/APPLICANTS:

1.GIRIJA,W/O.LATE VIJAYAKUMAR,
MODAPPANKUNNATH HOUSE, NAIKETTY P.O.,BATHERY TALUK,
WAYANAD DISTRICT.

2.VIJITHA,AGED 9 YEARS, D/O.GIRIJA,MODAPPANKUNNATH HOUSE,
NAIKETTY P.O., S.BATHERY TALUK, WAYANAD DISTRICT.

2ND PETITIONER IS MINOR AND REP. BY THE 1ST PETITIONER, WHO IS MOTHER, GUARDIAN, AND NEXT FRIEND)

3.UNNIKUTTY,W/O.CHERUNNY, MODAPPANDUNNATH HOUSE,
NAIKETTY P.O., S.BATHERY TALUK, WAYANAD DISTRICT.

4.SAROJINI,W/O.UNNIKUTTY,MODAPPANDUNNATH HOUSE,
NAIKETTY P.O., S.BATHERY TALUK,WAYANAD DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS/RESPONDENTS:

1.VIJU.K.A,S/O.ABRAHAM,
KAKKARATHAPARAMBIL HOUSE, KARACHAL,
MEENANGADI, WAYANAD DISTRICT.

2.THE UNITED INDIA INSURANCE CO. LTD.,S.BATHERY, WAYANAD DIST.

BY ADV. SRI.K.RAVEENDRAN FOR R2
SRI.M.A.HAKIM SHAH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

M.F.A.NO.637 OF 2001 (A)

Dated this the 18th day of August, 2007

J U D G M E N T

KOSHY,J.

A 30 year old driver during the course of employment met with an accident and he suffered serious injuries and he succumbed to the injuries. His dependents filed an application for compensation. Since he was 30 years old as proved by the certificates, 207.98 is the relevant factor as per Schedule IV of the W.C.Act Even though he was getting more than Rs.1,000/- per month, tribunal has taken only Rs.1,000/- as monthly wages as on the date of accident, maximum wages that can be taken into account for calculating compensation is Rs.1,000/-. Accident occurred prior to the amendment of the W.C.Act by Act 30 of 1995. In ***K.S.E.B. v. Valsala K. and another (JT 1999 (7) SC 292)***, Apex Court held that compensation can be calculated only as per the provisions of the Act as in force on the date of accident. Here the compensation was calculated as on

the date of the accident and thus Rs.83,192/- was awarded. However, Commissioner awarded interest only from the date of default. In view of the Constitution Bench decision in ***Pratap Narain Singh Deo v. Shrinivas Sabata and another (AIR 1976 SC 222)*** and a three member Bench decision in ***Maghar Singh v. Jashwant Singh (1998 (9) SCC 134),*** we are of the opinion that interest is payable from the date liability to pay compensation 'fell due' and liability to pay income on the date when a workmen received personal injuries in an accident arising out of and during the course of employment. Hence interest is payable at the rate of 6% per annum from the date of accident till deposit and 2nd respondent Insurance company is directed to deposit the same. With that modification this appeal is disposed of.

J.B.KOSHY, JUDGE

V.GIRI, JUDGE

prp

J.B.KOSHY & V.GIRI, JJ.

M.F.A.NO.637 OF 2001 ()

J U D G M E N T

18th August, 2007